

1 **BEFORE THE ARIZONA REGULATORY BOARD**
2 **OF PHYSICIAN ASSISTANTS**

3 In the Matter of

4 **JEF B. ESQUERRA, P.A.**

5 Holder of License No. 1971
6 For the Performance of Health Care Tasks
7 In the State of Arizona.

Case No. PA-09-0029A

**CONSENT AGREEMENT FOR
DECREE OF CENSURE AND
PROBATION**

8 **CONSENT AGREEMENT**

9 By mutual agreement and understanding, between the Arizona Regulatory Board
10 of Physician Assistants ("Board") and Jef B. Esquerra, P.A. ("Respondent"), the parties
11 agreed to the following disposition of this matter.

12 1. Respondent acknowledges that he has read and understands this Consent
13 Agreement and the stipulated Findings of Fact, Conclusions of Law and Order.
14 Respondent acknowledges that he understands he has the right to consult with legal
15 counsel regarding this matter and has done so or chooses not to do so.

16 2. By entering into this Consent Agreement, Respondent voluntarily
17 relinquishes any rights to a hearing or judicial review in state or federal court on the
18 matters alleged, or to challenge this Consent Agreement in its entirety as issued by the
19 Board, and waives any other cause of action related thereto or arising from said Consent
20 Agreement.

21 3. This Consent Agreement is not effective until approved by the Board and
22 signed by its Executive Director.

23 4. The Board may adopt this Consent Agreement of any part thereof. This
24 Consent Agreement, or any part thereof, may be considered in any future disciplinary
25 action against Respondent.

1 5. This Consent Agreement does not constitute a dismissal or resolution of
2 other matters currently pending before the Board, if any, and does not constitute any
3 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any
4 other pending or future investigation, action or proceeding. The acceptance of this
5 Consent Agreement does not preclude any other agency, subdivision or officer of this
6 State from instituting other civil or criminal proceedings with respect to the conduct that is
7 the subject of this Consent Agreement.

8 6. All admissions made by Respondent are solely for final disposition of this
9 matter and any subsequent related administrative proceedings or civil litigation involving
10 the Board and Respondent. Therefore, said admissions by Respondent are not intended
11 or made for any other use, such as in the context of another state or federal government
12 regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or
13 any other state or federal court.

14 7. Upon signing this agreement, and returning this document (or a copy
15 thereof) to the Board's Executive Director, Respondent may not revoke the acceptance of
16 the Consent Agreement. Respondent may not make any modifications to the document.
17 Any modifications to this original document are ineffective and void unless mutually
18 approved by the parties.

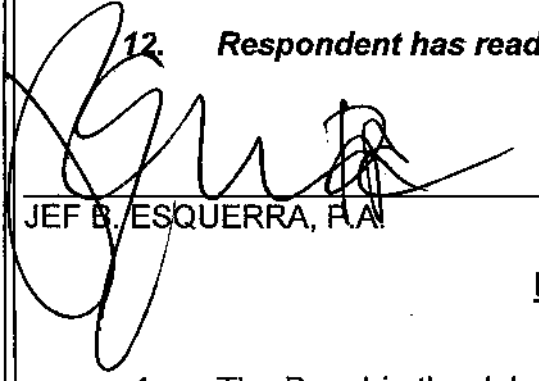
19 8. If the Board does not adopt this Consent Agreement, Respondent will not
20 assert as a defense that the Board's consideration of this Consent Agreement constitutes
21 bias, prejudice, prejudgment or other similar defense.

22 9. This Consent Agreement, once approved and signed, is a public record that
23 will be publicly disseminated as a formal action of the Board and will be reported to the
24 National Practitioner Data Bank and to the Arizona Regulatory Board of Physician
25 Assistant's website.

1 10. If any part of the Consent Agreement is later declared void or otherwise
2 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in
3 force and effect.

4 11. Any violation of this Consent Agreement constitutes unprofessional conduct
5 and may result in disciplinary action. A.R.S. § § 32-2501(21)(dd) ("[v]iolating a formal
6 order, probation agreement or stipulation issued or entered into by the board or its
7 executive director") and 32-2551.

8 12. ***Respondent has read and understands the conditions of probation.***

9 
10 JEF B. ESQUERRA, F.A.

Dated: 8/29/09

11 **FINDINGS OF FACT**

12
13 1. The Board is the duly constituted authority for the regulation and control of
14 physician assistants in the State of Arizona.

15 2. Respondent is the holder of license number 1971 for the performance of
16 health care tasks in the State of Arizona.

17 3. The Board initiated case number PA-09-0029A after receiving notification
18 that the Utah Division of Professional and Occupational Licensing Board (Utah Board) took
19 action against Respondent's license in February 2008.

20 4. From 2001 through 2005, Respondent treated patient JD for mental issues
21 and chronic pain. Even though Respondent was aware that JD had a history of alcohol
22 abuse and had referred her to a substance abuse program, he prescribed excessive
23 amounts of Fentanyl and Alprazolam. On February 17, 2005, JD died. The autopsy report
24 revealed mixed drug poisoning involving Fentanyl, Alprazolam and ethanol. The Utah
25 Board found that Respondent's medical record did not document sufficient support for the

1 opioid treatment, he did not follow the chronic pain management guidelines, and that failed
2 to produce a Delegations of Services Agreement with his supervising physician from 2001
3 through 2005 upon request by the Utah Board. Subsequently, Respondent voluntarily
4 surrendered his Utah medical license based upon the disciplinary action for unprofessional
5 conduct taken in the state of Utah. The Utah surrender is incorporated as referenced.

6 CONCLUSIONS OF LAW

7 1. The Arizona Regulatory Board of Physician Assistants possesses jurisdiction
8 over the subject matter hereof and over Respondent.

9 2. The conduct and circumstances described above constitute unprofessional
10 conduct pursuant to A.R.S. § 32-2501(21)(v) ("[h]aving a certification of license refused,
11 revoked, suspended, limited or restricted by any other licensing jurisdiction for the inability
12 to safely and skillfully perform health care tasks or for unprofessional conduct as defined
13 by that jurisdiction that directly or indirectly corresponds to any act of unprofessional
14 conduct as prescribed by this paragraph.").

15 ORDER

16 IT IS HEREBY ORDERED THAT:

17 1. Respondent is issued a Decree of Censure.

18 2. Respondent is placed on probation for **fifteen years** with the following terms
19 and conditions:

20 a. Respondent is prohibited from prescribing, administering, or
21 dispensing any Controlled Substances.

22 b. Obey All Laws

23 Respondent shall obey all state, federal and local laws, all rules governing
24 the performance of health care tasks in Arizona, and remain in full compliance with any
25 court order criminal probation, payments and other orders.

1 c. Tolling

2 In the event Respondent should leave Arizona to reside or perform health
3 care tasks outside the State or for any reason should Respondent stop performing health
4 care tasks in Arizona, Respondent shall notify the Executive Director in writing within ten
5 days of departure and return or the dates of non-performance within Arizona. Non-
6 performance is defined as any period of time exceeding thirty days during which
7 Respondent is not engaging in the performance of health care tasks. Periods of temporary
8 or permanent residence or performance of health care tasks outside Arizona or of non-
9 performance of health care tasks within Arizona, will not apply to the reduction of the
10 probationary period.

11 3. Request for Termination

12 After two years of the effective date of the probation, Respondent may
13 petition the Board to have the remaining probationary period and practice restriction
14 terminated. Prior to Respondent's petition, Respondent shall undergo a residential
15 evaluation at the Physician Assessment and Clinical Education (PACE) Program.
16 Respondent is responsible for all expenses related to the evaluation and/or treatment.
17 Respondent shall sign consent to release all confidential evaluation and/or treatment
18 records to the Board. Respondent shall comply with any recommendations made by PACE
19 and approved by Board Staff including any recommendation that he undergo and
20 successfully complete further residential treatment at a Board approved facility.

21 4. This Order is the final disposition of case number PA-09-0029A.

22 DATED AND EFFECTIVE this 18TH day of NOVEMBER, 2009.
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ARIZONA REGULATORY BOARD OF
PHYSICIAN ASSISTANTS

By




Lisa S. Wynn
Executive Director

7 ORIGINAL of the foregoing filed this
8 18 day of November, 2009 with:

9 Arizona Regulatory Board of Physician Assistants
9545 E. Doubletree Ranch Road
10 Scottsdale, AZ 85258

11 EXECUTED COPY of the foregoing mailed
12 this 18 day of November, 2009 to:

13 Jef B. Esquerra, P.A.
Address of Record

14 

15 Arizona Regulatory Board
16 of Physician Assistants Staff

L. MITCHELL JONES (U.S.B. 5979)
Assistant Attorney General
MARK L. SHURTLEFF (U.S.B. 4666)
Attorney General
Commercial Enforcement Division
Heber M. Wells Building
Box 146741
Salt Lake City, UT 84114-6741
TEL: (801) 366-0310

**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE LICENSES OF)	
JEF BLAINE ESQUERRA)	STIPULATION AND ORDER
TO PRACTICE AS A PHYSICIAN)	
ASSISTANT AND TO)	CASE NO. DOPL: 2008-35
ADMINISTER AND PRESCRIBE)	
CONTROLLED SUBSTANCES)	
IN THE STATE OF UTAH)	

**JEF BLAINE ESQUERRA ("Respondent") and the DIVISION OF
OCCUPATIONAL AND PROFESSIONAL LICENSING of the Department of Commerce of
the State of Utah ("Division") stipulate and agree as follows:**

1. Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action.
2. Respondent acknowledges that Respondent enters into this Stipulation knowingly and voluntarily.

3. Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives Respondent's right to counsel in this matter.

4. Respondent understands that Respondent is entitled to a hearing before the Utah State Physician Assistant Licensing Board ("the Board"), or other Division Presiding Officer, at which time Respondent may present evidence on Respondent's own behalf, call witnesses, and confront adverse witnesses. Respondent acknowledges that by executing this document Respondent hereby waives the right to a hearing and any other rights to which Respondent may be entitled in connection with said hearing.

5. Respondent waives the right to the issuance of a Petition and a Notice of Agency Action in this matter.

6. Respondent acknowledges that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document. The Division is permitted to release this Stipulation and Order and other information about this disciplinary action against Respondent to other persons and entities.

7. Respondent neither admits nor denies the allegations against him, but agrees that the Division, for purposes of this administrative matter only, shall make the following findings of fact:

2. Between 2001 and January 2005, Respondent provided medical treatment to patient Jane Doe to treat her mental health issues and pain. Respondent prescribed amounts of Fentanyl (contained in Actiq lollipops) to Jane Doe in amounts that could be considered excessive. Respondent states that he became aware that Jane Doe had an alcohol abuse problem by Jane Doe's own report. Respondent states that he then referred Jane Doe to a substance abuse program. Respondent states that Jane Doe then reported to

Respondent that she was alcohol free, after which Respondent resumed issuing prescriptions to Jane Doe.

- b. Respondent states that from about November 2004 to about January 2005 Respondent prescribed two Fentanyl 1600 mcg (contained in Actiq lollipops) four times per day for pain and Alprazolam 2 mg twice per day for anxiety.
- c. On or about February 17, 2005, Jane Doe died. The autopsy report indicated that the immediate cause of Jane Doe's death was mixed drug poisoning involving Fentanyl, Alprazolam, and ethanol.
- d. Respondent failed to document sufficient reason for the prescribed amount of opioid treatment in Jane Doe's medical record.
- e. Respondent, failed, as a prescribing practitioner, to follow the chronic pain management guidelines contained in the *Model Policy for the Use of Controlled Substances for the Treatment of Pain, 1998 and 2004*.
- f. Respondent failed to produce a Delegation of Services Agreement with his supervising physician from 2001 to 2005 upon request by the Division.

8. The Division hereby finds that Respondent's conduct described above is unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a) and (j) and Utah Administrative Code R156-1-502(6); and that said conduct justifies disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a). Respondent agrees to hereby surrender Respondent's licenses to practice as a physician assistant to administer and prescribe controlled substances in the State of Utah. Respondent agrees that the issuance of the Order in this matter constitutes disciplinary action by the Division pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2)(a) and (b). Respondent agrees not to reapply for licensure as a physician assistant and to administer and prescribe controlled substances in the State of Utah until December 10, 2012. The Division does not guarantee that any future application by Respondent for licensure will be granted. If the

Division Director accepts the terms of this Stipulation and Order, Respondent forfeits all rights to practice as a physician assistant and to administer and prescribe controlled substances in the State of Utah. Respondent understands that Respondent will not receive any refund of license or renewal fees previously paid to the Division.

9. This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this non-criminal administrative matter. Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

10. This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation.

11. If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law.

12. Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order.

DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING

BY: *Diana Baker*
DIANA BAKER
Bureau Manager

DATE: 2/13/08

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: *L. Mitchell Jones*
L. MITCHELL JONES
Counsel for the Division

DATE: 02/13/08

RESPONDENT

BY: *Jef Blaine Esquerra*
JEF BLAINE ESQUERRA
Respondent

DATE: 2/8/08

ORDER

THE ABOVE STIPULATION, in the matter of JEF BLAINE ESQUERRA, is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The issuance of this Order is disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2). The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 19 day of February, ~~2007~~ 2008

DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING


F. DAVID STANLEY

Director

INVESTIGATOR: SANDRA HESS